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prudent person under similar circumstances.

(e) *Proximate cause.* The dominant or primary cause involving a natural and continuous sequence unbroken by an effective cause.

§ 842.88 Delegations of authority.

(a) *Settlement authority.* (1) Subject to the prior written, approval of the United States Attorney General or his designee, the following individuals have delegated authority to settle claims in excess of \$25,000, to settle claims for \$25,000 or less, and to deny a claim in any amount:

- (i) The Judge Advocate General.
- (ii) The Deputy Judge Advocate General.
- (iii) The Director of Civil Law.

(2) Subject to the prior written approval of the United States Attorney General or his designee, the Chief, Claims and Tort Litigation Staff has delegated authority to settle claims in excess of \$25,000 up to a limit of \$50,000, to settle claims for \$25,000 or less; and to deny a claim in any amount.

(3) The Deputy Chief and Branch Chiefs, Claims and Tort Litigation Staff have delegated authority to settle claims for \$25,000 or less and deny a claim in any amount.

(4) The SJA of HQ 9AF for CENTCOM, and SJAs of PACAF and USAFE have delegated authority to settle claims payable, and deny claims filed, for \$25,000 or less.

(5) The following individuals have delegated authority to settle claims payable, and deny claims filed, for \$15,000 or less:

- (i) SJAs of single base GCMs.
- (ii) SJAs of GCMs in PACAF and USAFE.
- (iii) SJAs of each Air Force base, station, or fixed installation.

(b) *Redelegation of authority.* A settlement authority may be redelegated, in writing, to a subordinate judge advocate or civilian attorney.

(c) *Authority to reduce, withdraw, and restore settlement authority.* Any superior settlement authority may reduce, withdraw, or restore delegated authority.

(d) *Settlement negotiations.* A settlement authority may settle a claim filed in any amount for a sum within

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the delegated authority. Unsettled claims in excess of the delegated authority will be sent to the next highest level with settlement authority. Unsuccessful negotiations at one level do not bind higher authority.

(e) *Special exceptions.* Do not settle claims for the following without HQ USAF/JACC approval:

- (1) Legal malpractice.
- (2) On the job personal injury or death of an employee of a government contractor or subcontractor.
- (3) Assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution committed by an investigative or law enforcement officer.
- (4) Animal bites.
- (5) Personal injury from asbestos or radon.
- (6) Medical malpractice.

[55 FR 2809, Jan. 29, 1990, as amended at 56 FR 1574, Jan. 16, 1991]

§ 842.89 Statute of limitations.

A claim must be presented in writing within 2 years after it accrues.

(a) Federal, not state law, determines the time of accrual. A claim normally accrues at the time of injury when essential operative facts are apparent. However, in other instances, especially in complex medical malpractice cases, a claim accrues when the claimant discovers or reasonably should have discovered the existence of the act that resulted in the claimed loss.

(b) In computing the statutory time period, the day of the incident is excluded and the day the claim was filed is included.

(c) The Air Force has 6 months to consider a properly filed claim, after which the claimant may file suit. The claimant's right to sue ends 6 months from the date the final denial is mailed.

(d) Properly asserted third party actions, as permitted under the Federal Rules of Civil Procedure, may be brought against the United States without first filing a claim. In such instances those actions may start more than 2 years after the claim has accrued.

[55 FR 2809, Jan. 29, 1990, as amended at 55 FR 32077, Aug. 7, 1990]

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§ 842.90 Reconsideration of final denials.

(a) A claimant may request a settlement authority who denied a claim to reconsider that claim. If the settlement authority denies the request, the claim file is sent to the next higher claims settlement authority for action.

(b) A request for reconsideration must be filed in writing within 6 months of the final denial and prior to initiation of a suit. A request for reconsideration starts a new 6-month period for the Air Force to consider the claim. The claimant may not sue during that period.

§ 842.91 Settlement agreements.

The claimant must sign a settlement agreement and general release before any payment is made.

Subpart L—Property Damage Tort Claims in Favor of the United States (31 U.S.C. 3701, 3711–3719)

§ 842.92 Scope of this subpart.

This subpart describes how to assert, administer, and collect claims for damage to or loss or destruction of government property through negligence or wrongful act. It does not cover admiralty, hospital recovery, or non-appropriated fund claims.

§ 842.93 Delegations of authority.

(a) *Settlement authority.* (1) The following individuals have delegated authority to settle, compromise, suspend, or terminate action on claims for \$20,000 or less and to accept full payment on any claim:

- (i) The Judge Advocate General.
- (ii) The Deputy Judge Advocate General.
- (iii) The Director of Civil Law.
- (iv) Chief, Deputy Chief, and Branch Chiefs, Claims and Tort Litigation Staff.

(2) The SJA of HQ 9AF (for CENTCOM), and the SJAs of PACAF and USAFE have delegated authority to settle, compromise, suspend, or terminate action on claims for \$15,000 or less and to accept full payment on any claim.

(3) SJAs of GCMs located in PACAF and USAFE and single base GCMs located in CONUS have delegated authority to settle, compromise, suspend, or terminate action on claims for \$15,000 or less and to accept full payment on any claim.

(4) SJAs of each Air Force base, station or fixed installation have delegated authority to settle, compromise, suspend, or terminate action on claims for \$10,000 or less and to accept full payment on any claim.

(b) *Redelegation of authority.* A settlement authority may redelegate it to a subordinate judge advocate or civilian attorney, in writing.

(c) *Authority to reduce, withdraw, or restore settlement authority.* Any superior settlement authority may reduce, withdraw, or restore delegated authority.

§ 842.94 Assertable claims.

A claim may be asserted in writing for loss of or damage to government property, against a tort-feasor when:

(a) Damage results from negligence and the claim is for:

- (1) More than \$100.
- (2) Less than \$100 but collection costs are small.

(b) The claim is based on a contract and the contracting officer does not intend to assert a claim under the contract. The contracting officer's intention not to assert a claim should be recorded in a memorandum for the record and placed in the claim file.

(c) The claim is for property damage arising from the same incident as a hospital recovery claim. (The two claims should be consolidated and processed under subpart N).

(d) The Tort-feasor or his insurer presents a claim against the government arising from the same incident. (Both claims should be processed together.)

(e) The claim is assertable as a counterclaim under an international agreement. (The claim should be processed under subpart H).

(f) The claim is based on product liability. HQ USAF/JACC approval must be obtained before asserting the claim.

§ 842.95 Non-assertable claims.

A claim is not assertable under this subpart when it is for: